

P4, Bill 69 ('13) CD1

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From: DRJLAM@aol.com
Sent: Friday, May 02, 2014 4:55 PM
Subject: Bill 69. Testimony in opposition.

Councilman Ernie Martin,
 Chairperson,
 City Council of Honolulu
 Honolulu, HI 96813

5/2/14

Dear Council members,

I cannot make it out to Kapolei to testify in person, so i am sending this in through email. I am submitting testimony in strong opposition to Bill 69.

The administration has revisited the topic of outdoor bus advertising after introducing the idea in 2003. They now want to change the present law that bans all outdoor, off-site advertising. That is why we presently have no billboards, no aerial advertising and no mobile advertising (Section 445-111 to 445-121, 1990). Laws limiting outdoor advertising are designed to protect Hawaii's most valuable asset ----her aesthetic and fragile environment.

The new law will open the floodgates for controversy and expensive 1st amendment lawsuits. Someone in the City , perhaps in the Corporation Counsels Office or Ethics Office, will have to play judge and jury to all kinds of new and provocative ads. They will never be able to gauge the public outcry to bus billboards promoting marijuana being safer than alcohol, women's swimwear guidelines, or McDonald's allegations of good nutrition. Government entities cannot censor opinions just because somebody considers them offensive. Several cities now face litigation based on the 1st amendment. I just watched two news reports about a San Francisco religious ad on the Muni and Phoenix gun ad on buses which are facing lawsuits.

Bus billboards will set an obvious precedent for future outdoor advertising in Hawaii. If buses can bring in X dollars, taxi and handivan advertising can bring in additional funds. HART recently announced plans for artistic Hawaiian decor on the cement pillars along the rail route. The rail cars may also be next step in outdoor ads. No one is in political office forever and can guarantee where it will stop. Money will talk and the environment will suffer. In the past, aerial advertising banners that were going to show dead fetuses in the abortion debate were thankfully banned.

The amount of money the City will realize from this folly which may be \$2 to \$8 million is miniscule compared with the Bus budget of \$261 million. The income is based on three sides of all the city buses covered with ads 24 hours a day, 7 days a week. Even the inside of buses have empty spaces for ads. The monetary gain for the risk of destroying the scenic beauty of Hawaii forever is not worth it. Were you elected to protect the aina or get every nickel and dime you can at the expense of the aina? ? The billboards on buses certainly will not attract more tourists and may keep eco-tourism growth at bay. The City has only to sell one condemned beachfront property at Niu waterfront to bring themselves \$2 million. Many other properties sit idle waiting for what? What about the City nursery at Kapiolani Park? Selling that prime land and placing the nursery appropriately in a wet valley to save the huge water bills in dry Waikiki makes sense to me. What about the overhead of startup costs and

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maintenance costs and more staff?

There are many other ways for the City to generate funds without sacrificing the future beauty of our State. They should do it with options that do not change the laws that keep Hawaii clean and green. I wonder if Bill 69 will override the current HRS Sections 445-111 to 445-121 which bans outdoor advertising. A court case will be sure to follow this bill. I hope the council will look at the big picture and not sacrifice the essence of Hawaii for a few extra bus routes. Please look elsewhere for your funding.

Finally, I want to attach Mayor Kirk Caldwell's written testimony in the past which warns about the perils of bus advertising:

Don't Take Risk on Bus Ads

This article originally appeared in the October 3rd, 2003 issue of the Honolulu Advertiser. Used with permission from the author, Kirk Caldwell, Representative from the 24th House District.

Hawai'i is unique for having a long history of banning billboards. Let's keep it that way.

The City Council's decision to not allow advertising on the outside of city buses was a vote in favor of Honolulu's and Hawaii's cutting-edge laws banning billboards from our state.

The credit for cleaning up Hawaii's eye pollution goes to The Outdoor Circle, organized here almost a century ago. One hundred years ago, we had lots of billboards. King Street and Wai'ala Avenue were smorgasbords of the visual pitch long before Madison Avenue had become America's mecca for advertising. Billboards propped up on the backside of Diamond Head advertised Burma Shave, the latest smoking products and every kind of toothpaste imaginable.

By 1926, The Outdoor Circle had succeeded in shutting down this public circus. It did it by boycotting the products being advertised on billboards and by buying out the state's few remaining billboard companies.

Our state Constitution now recognizes the importance of preserving Hawaii's natural beauty. Hawai'i is the first and only state to expressly validate the use of legal power for aesthetic purposes.

Under our current statutory scheme, I believe that Hawaii's lawmakers are able to furnish evidence that Hawaii's billboard ordinances are in fact designed to improve the aesthetics of a given area and that the state is committed to improving the aesthetics of all areas in which billboards are banned. The evidence is all around us.

But should the City Council have passed the bill allowing advertising on the outside of city buses, it would have eroded what is now a bright line regarding our efforts to improve and protect the aesthetics of Honolulu.

The City Council voted to send the advertising bill back to the Joint Committee on Transportation and Budget, where it sits for the time being. In the meantime, the city's Transportation Commission has been asked to review this bill and other recommendations and report back at a later date its finding on various alternatives for raising funds to subsidize bus ridership.

When the Transportation Commission reports its findings, hopefully advertising on the outside of buses will not be one of the recommended alternatives. Why take the legal risk of subjecting our ordinance banning billboards to a constitutional challenge? We should not open the door, even a crack, to this possibility.

Hawai'i is unique, both nationally and internationally, for having a long history of banning billboards. Let's stand firm in protecting the beauty of Honolulu and our state.

Please listen to our Mayor's sincere and intelligent plea when he was representing Manoa. I

think the Budget Committee should sense what is right for Hawaii and what will surely be trouble ahead. Please hold the bill here in committee.

Thank you considering my testimony against Bill 69.

Sincerely,
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